

September 13, 2020

I am submitting this comment on **Expedited Bill 34-20, Police - Disciplinary Procedures - Police Labor Relations - Duty to Bargain – Amendments.**

First, I would state that I support the changes to disciplinary procedure outlined in the bill. It is an urgent modification, long overdue, but certainly important in the context of current events. An impression that police officers not only enforce the law, but are themselves above the law, hurts the reputation of the entire force. This is only a first step, though, to the real changes that are needed in the entire criminal justice system. I would offer the following thoughts for your consideration.

Imagine a county, or a country, where Black Americans do not need to worry about being killed in a routine traffic stop. Imagine a county, or a country, where Black parents do not need to sit down and give their children “the talk”. Imagine a county, or a country, where Black Americans can jog through neighborhoods without fear of being shot by vigilante citizens.

Alternately, imagine a county, or a country, where White Americans needed to worry about being killed in a routine traffic stop, or where White parents needed to sit down and give their children “the talk”, or where White Americans were being shot by vigilante citizens.

Finally, imagine a county, or a country, where the police were respected and trusted by all segments of society.

Either of the first two concepts would be more equitable than the broken system we have today, but the second would result in cries of police harassment from a better funded and more lawyered up segment of our society. It is only the first concept that would lead to the third concept; thus the first and third scenarios are the more desirable ones. At this critical juncture in our understanding of policies, practices, and review of police actions in our communities, we have an opportunity to find the best way to achieve a goal of equality where no person of any race has more reason than any other to feel threatened by the police.

The repeated shootings and killings of African American citizens, often captured on video by bodycams and by the public, have brought us to this boiling point. While the shootings are the most extreme examples of inequitable treatment of African Americans, they represent only a small fraction of the unfair treatment, harassment, and fear that people of color feel when they find themselves, either justifiable or not, in an encounter with police. The demonstrations by both Black and White Americans, largely peaceful, are a testament to the large swath of people who feel things need to change. Vigilantism, and the call for Law and Order, while expected, only serve to increase the level of tension. Tensions are high on all sides of our political divide. Simply calling for more of the same, that is an increasingly aggressive approach to Law and Order on the one hand, or calling for defunding or dismantling the police on the other, may satisfy an emotional need in the heat of this moment. They are not solutions to the underlying problems. A focus only on Law and Order will increase the level of harassment of, and fear, and inequitable treatment. The current scenes in the street may be held down for a while, but the eruption will be even stronger next time. I think it is important that we listen to the comments and perspectives of our Black brothers and sisters in order to take positive action. Labeling a re-examination of the history of racism in the US, and even prior to the founding of the US, as un-American is just another way to suppress the problems and ensure that they will erupt later.

I would suggest that you be guided by the following considerations:

1) The discipline of police officers committing illegal actions is a deterrent against violations by police officers. It is also a way in which the county can demonstrate transparency and accountability for the actions of its employees. Recently, a comparison of policing to golf was put forth, and widely publicized. This observation was that sometimes in the heat of the moment, when a split second decision is needed, people choke and make the

wrong decision. In golf, this could mean a missed putt. In policing, it might mean a shooting or killing of a suspect. This comparison is inaccurate. A golfer choking and missing the putt is usually the result of many seconds or minutes of agonizing over the shot. That type of action would be better characterized as premeditation. The truly split second decision is one made without thinking or overthinking, is where gut reaction and prior training guide the action. It is under these conditions that personal bias may come into play. We are all biased. In order to act responsibly, we must recognize our biases and overcome them.

2) How can we overcome our biases? The word discipline can be used in different ways. I understand the use in this bill is related to the consequences to an officer as a result of actions that lead to shootings and killings. However, another meaning of discipline is related to training someone to follow the appropriate rule, even under very trying conditions. Sensitivity training sessions as they are characterized in popular culture may not be all that helpful. Many find them offensive (“are you calling me a racist, or a white supremecist?”) or treat them as a joke. Is there action-oriented training that can help us recognize and overcome bias? Are there ways in which anti-bias training can be measured? I am sure people with greater expertise than mine have thought about this. In 2015, a police force in North Miami used mug shots of Black men for their target practice. This seems a perfect, actually a perfectly horrendous, way to reinforce bias. What if during training, officers were confronted with both Black and White, men and women, adults and children, and had to score a racial and gender balance in their choices to shoot or not to shoot?

3) The issue of police reform has been studied in the past and practical solutions have been proposed. The Obama *Task Force on 21st Century Policing*, May 2015, is one such proposal, and should be considered as a model. Each of the pillars is important. In these times where police officers may feel unappreciated, even vilified, one of the pillars included in that report is a focus on the well being of the officers themselves. Overwork combined with feeling the wrath of crowds of protesters is not a combination where the best decisions are made. Being aware of these challenges to the practice of policing are important to be addressed, and are quite relevant to attracting and retaining a quality, diverse, and respected police force.

4) I believe this is already the norm in Montgomery County, but police shootings and killings should be investigated by review panels outside of the prosecutors of our County. They need to be independent, not the same attorneys who work hand-in-hand with the police to prosecute cases in the County.

Finally, I would suggest that two of the main purposes of government are for order and justice. It is possible, at least for a time, to have order without justice. However, that order will not be sustainable, but will erupt into disorder when certain trigger events occur. Justice has several nuances. It means that individuals who commit crimes are tried and punished/rehabilitated. It also means that individuals suffer the consequences regardless of race or economic status. Policing is one way that order and justice can be applied fairly or unfairly. However, policing is only one part of the criminal justice system. The criminal justice system must also be re-imagined to ensure “liberty and justice for all”.

Thank you for this opportunity to address the Council.

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